

Amendments to House Bill No. 494
1st Reading Copy

Requested by Representative Champ Edmunds

For the Senate Local Government Committee

Prepared by Leanne Kurtz
March 21, 2011 (3:10pm)

1. Title, line 6.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "76-3-204,"

Insert: "76-6-203, AND 76-7-203,"

Following: ";

Insert: "REPEALING SECTION 76-3-202, MCA;"

2. Page 1, line 11 through line 19.

Strike: section 1 in its entirety

Insert: "Section 1. Section 76-3-204, MCA, is amended to read:

"76-3-204. Exemption for conveyances of one or more parts of a structure or improvement rent or lease of buildings or structures or parts of buildings or structures. The sale, rent, or lease, or other conveyance of one or more buildings or structures or one or more parts of a building, structure, or other improvement buildings or structures, whether existing or proposed, on a single parcel of land or on multiple parcels of land in the same ownership is not a division of land, as that term is defined in this chapter 76-3-103, and is not subject to the requirements of this chapter if:

(1) the parcel or parcels and the buildings or structures are in conformance with applicable local zoning regulations; or

(2) where applicable local zoning regulations are not in effect:

(a) the parcel or parcels resulted from a subdivision under parts 5 and 6 of this chapter and the subdivision application, preliminary plat, or other information reviewed by the governing body incorporated multiple buildings or structures on individual lots;

(b) there are no more than three single dwelling structures in addition to the parcel owner's primary residence;

(c) the buildings or structures do not have sewage disposal facilities; or

(d) the buildings or structures are intended:

(i) for rental as storage units;

(ii) for a single agricultural operation; or

(iii) for the operation of a youth camp as that term is defined in 50-52-101 or a guest ranch as that term is defined in 50-51-102."

{ Internal References to 76-3-204:
X76-4-125 }"

Insert: "Section 2. Section 76-6-203, MCA, is amended to read:

"76-6-203. Types of permissible easements. Easements or restrictions under this chapter may prohibit or limit ~~any or all~~ of the following:

- (1) ~~structures--~~construction or placing of buildings, camping trailers, housetrailer, mobile homes, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;
- (2) ~~landfill--~~dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;
- (3) ~~vegetation--~~removal or destruction of trees, shrubs, or other vegetation;
- (4) ~~loam, gravel, etc.--~~excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance;
- (5) ~~surface use--~~surface use except for such purposes permitting the land or water area to remain predominantly in its existing condition;
- (6) ~~acts detrimental to conservation--~~activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat and preservation;
- (7) ~~subdivision of land--~~subdivision of land as defined in 76-3-103, and 76-3-104, and 76-3-202;
- (8) ~~other acts--~~other acts or uses detrimental to such retention of land or water areas in their existing conditions."

{ Internal References to 76-6-203:
77-2-319 }"

Insert: "Section 4. Section 76-7-203, MCA, is amended to read:

"76-7-203. Permissible easements. (1) An environmental control easement under this chapter may prohibit or limit the following activities or uses:

- (a) constructing or placing of buildings, camping trailers, housetrailer, mobile homes, roads, or other structures on or above the ground;
- (b) dumping or placing of soil, debris, or other wastes or substances as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;
- (c) removing or destroying trees, shrubs, or other vegetation or planting or allowing growth of specific types of vegetation, such as crops for human or animal consumption or undesirable vegetation;
- (d) excavating, dredging, or removing of gravel, soil, rock, or other materials or substances;
- (e) using the surface of the land in a particular manner,

such as for agricultural, residential, commercial, or industrial uses;

(f) subdividing the land, as described in 76-3-103, and 76-3-104, ~~and 76-3-202~~;

(g) disturbing soil caps, soil surfaces, berms, drainage structures, or other structures or other activities that may cause erosion or migration of hazardous wastes or substances at or from the environmental control site;

(h) drilling or using water wells for potable or nonpotable purposes;

(i) other activities or uses detrimental to or interfering with the remediation or cleanup of the environmental control site or detrimental to the preservation of remedial structures, measures, or technologies employed at the environmental control site; and

(j) other activities or uses that may result in a risk or threat to the public health, safety, or welfare or the environment.

(2) An environmental control easement under this chapter may include or require the following:

(a) maintenance of environmental control site remedial structures or other remedial measures, such as soil surfaces, soil caps, berms, fences, or drainage improvements;

(b) rights in the holder of the easement or others for continuing access to the site as necessary to implement, operate, maintain, and monitor remedial work and technologies, including operation and maintenance, and to ensure implementation and enforcement of the requirements, restrictions, and limitations specified in the easement instrument;

(c) prompt notification to the holder of the easement or others of transfers of all or any portion of an environmental control site or interest in the site or of any proposed changes in land use at the site;

(d) compliance with all requirements of any applicable governmental order;

(e) arrangements for indemnification or for reimbursement of any costs and expenses of the easement holder or others or other methods of allocating costs and expenses for remedial actions, operations and maintenance, or other activities on the environmental control site or with respect to the site;

(f) other obligations that any federal public entity or other public body having jurisdiction over the property determines are necessary to implement, ensure noninterference with, or ensure the protection of remedial work performed under a governmental order; or

(g) other obligations that are necessary or advisable to reduce or eliminate risks or threats to the public health, safety, or welfare or the environment at environmental control sites."

{Internal References to 76-7-203: None.}"

Insert: "NEW SECTION. Section 52. {standard} Repealer. The following section of the Montana Code Annotated is repealed:
76-3-202. Exemption for structures on complying subdivided lands.
{ Internal References to 76-3-202: a76-6-203 a76-7-203 }"
Renumber: subsequent section

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